

**CORRECTED – reinstated omitted language on page 5, line 43**

House Engrossed

condominiums; commercial structures; residential structures

State of Arizona  
House of Representatives  
Fifty-seventh Legislature  
First Regular Session  
2025

**CHAPTER 46**  
**HOUSE BILL 2322**

AN ACT

AMENDING SECTIONS 33-1202, 33-1217 AND 33-1255, ARIZONA REVISED STATUTES;  
RELATING TO CONDOMINIUMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-1202, Arizona Revised Statutes, is amended to  
3 read:

4 **33-1202. Definitions**

5 In the condominium documents, unless specifically provided otherwise  
6 or the context otherwise requires, and in this chapter:

7 1. "Affiliate of a declarant" means any person who controls, is  
8 controlled by or is under common control with a declarant.

9 2. "Allocated interests" means the undivided interests in the  
10 common elements, the common expense liability and votes in the association  
11 allocated to each unit.

12 3. "Articles of incorporation" means the instrument by which an  
13 incorporated association or unit owners' association is formed and  
14 organized under this state's corporate statutes.

15 4. "Assessment" means the share of monies that is required for the  
16 payment of common expenses and that the association assesses periodically  
17 against each unit.

18 5. "Association" or "unit owners' association" means the unit  
19 owners' association organized under section 33-1241.

20 6. "Board of directors" means the body, regardless of its name,  
21 designated in the declaration and given general management powers to act  
22 on behalf of the association.

23 7. "Bylaws" means the bylaws required by section 33-1246.

24 8. "Common elements" means all portions of a condominium other than  
25 the units.

26 9. "Common expense liability" means the liability for common  
27 expenses allocated to each unit pursuant to section 33-1217 **OR 33-1255**.

28 10. "Common expense lien" means the lien for assessments, charges  
29 for late payment of assessments if authorized in the declaration,  
30 reasonable collection fees and costs incurred or applied by the  
31 association and reasonable attorney fees and costs that are incurred with  
32 respect to those assessments, if the attorney fees and costs are awarded  
33 by a court.

34 11. "Common expenses" means expenditures made by or financial  
35 liabilities of the association, together with any allocations to reserves.

36 12. "Condominium" means real estate, portions of which are  
37 designated for separate ownership and the remainder of which is designated  
38 for common ownership solely by the owners of the separate portions. Real  
39 estate is not a condominium unless the undivided interests in the common  
40 elements are vested in the unit owners.

41 13. "Condominium documents" means the declaration, bylaws, articles  
42 of incorporation, if any, and rules, if any.

43 14. "Declarant" means any person or group of persons who reserves,  
44 is granted or succeeds to any special declarant right.

1       15. "Declaration" means any instruments, however denominated, that  
2 create a condominium and any amendments to those instruments.

3       16. "Development rights" means any right or combination of rights  
4 reserved by or granted to a declarant in the declaration to do any of the  
5 following:

6           (a) Add real estate to a condominium.

7           (b) Create easements, units, common elements or limited common  
8 elements within a condominium.

9           (c) Subdivide units, convert units into common elements or convert  
10 common elements into units.

11           (d) Withdraw real estate from a condominium.

12           (e) Make the condominium part of a larger condominium or planned  
13 community.

14           (f) Amend the declaration during any period of declarant control,  
15 pursuant to section 33-1243, subsection E, to comply with applicable law  
16 or to correct any error or inconsistency in the declaration, if the  
17 amendment does not adversely affect the rights of any unit owner.

18           (g) Amend the declaration during any period of declarant control,  
19 pursuant to section 33-1243, subsection E, to comply with the rules or  
20 guidelines, in effect from time to time, of any governmental or  
21 quasi-governmental entity or federal corporation guaranteeing or insuring  
22 mortgage loans or governing transactions involving mortgage instruments.

23       17. "Identifying number" means a symbol or address that identifies  
24 one unit in a condominium.

25       18. "Leasehold condominium" means a condominium in which all or a  
26 portion of the real estate is subject to a lease the expiration or  
27 termination of which will terminate the condominium or reduce its size.

28       19. "Limited common element" means a portion of the common elements  
29 specifically designated as a limited common element in the declaration and  
30 allocated by the declaration or by operation of section 33-1212, paragraph  
31 2 or 4 for the exclusive use of one or more but fewer than all of the  
32 units.

33       20. "Person" means:

34           (a) A natural person, corporation, business trust, estate, trust,  
35 partnership, association, joint venture, government, governmental  
36 subdivision or agency, or other legal or commercial entity.

37           (b) In the case of a subdivision trust, as defined in section  
38 6-801, the beneficiary of the trust who holds the right to subdivide,  
39 develop or sell the real estate rather than the trust or trustee.

40       21. "Real estate":

41           (a) Means any legal, equitable, leasehold or other estate or  
42 interest in, over or under land, including structures, fixtures and other  
43 improvements and interests which by custom, usage or law pass with a  
44 conveyance of land though not described in the contract of sale or  
45 instrument of conveyance.

(b) Includes parcels with or without upper or lower boundaries and spaces that may be filled with air or water.

22. "Rules" means the provisions, if any, adopted pursuant to the declaration or bylaws governing maintenance and use of the units and common elements.

23. "Special declarant rights" means any right or combination of rights reserved by or granted to a declarant in the declaration to do any of the following:

(a) Construct improvements provided for in the declaration.

(b) Exercise any development right.

(c) Maintain sales offices, management offices, signs advertising the condominium, and models.

(d) Use easements through the common elements for the purpose of making improvements within the condominium or within real estate that may be added to the condominium.

(e) Appoint or remove any officer of the association or any board member during any period of declarant control.

24. "Unit" means a portion of the condominium designated for separate ownership or occupancy.

25. "Unit owner" means:

(a) A declarant or other person who owns a unit or, unless otherwise provided in the lease, a lessee of a unit in a leasehold condominium whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the condominium but does not include a person having an interest in a unit solely as security for an obligation.

(b) In the case of a contract for conveyance, as defined in section 33-741, of real property, the purchaser of the unit.

26. "Unit owner expenses":

(a) Means fees, charges, late charges and monetary penalties or interest that is imposed pursuant to section 33-1242, subsection A, paragraphs 10, 11 and 12.

(b) Does not include any amount that is included in a common expense lien.

Sec. 2. Section 33-1217, Arizona Revised Statutes, is amended to read:

### 33-1217. Allocation of common element interests, votes and common expense liabilities

A. EXCEPT AS REQUIRED BY SECTION 33-1255, the declaration shall allocate a fraction or percentage of undivided interests in the common elements and in the common expenses of the association, and a portion of the votes in the association, to each unit and state the formulas used to establish those allocations. Except as otherwise provided in this chapter, the allocations shall not discriminate in favor of units owned by the declarant.

1       B. If units may be added to or withdrawn from the condominium, the  
2 declaration must state the formulas to be used to reallocate the allocated  
3 interests among all units included in the condominium after the addition  
4 or withdrawal.

5       C. The declaration may provide:

6       1. That different allocations of votes shall be made to the units  
7 on particular matters specified in the declaration.

8       2. For cumulative voting only for the purpose of electing members  
9 of the board of directors.

10      3. For class voting on specified issues affecting the class if  
11 necessary to protect valid interests of the class.

12      D. Except for minor variations due to rounding, the sum of the  
13 undivided interests in the common elements and common expense liabilities  
14 allocated at any time to all the units must each equal one if stated as  
15 fractions or one hundred per cent if stated as percentages. If a  
16 discrepancy exists between an allocated interest and the result derived  
17 from application of the pertinent formula, the allocated interest  
18 prevails.

19      E. Except as otherwise permitted by the provisions of this chapter,  
20 the common elements are not subject to partition, and any purported  
21 conveyance, encumbrance, judicial sale or other voluntary or involuntary  
22 transfer of an undivided interest in the common elements made without the  
23 unit to which that interest is allocated is void.

24      Sec. 3. Section 33-1255, Arizona Revised Statutes, is amended to  
25 read:

26      33-1255. Assessments for common expenses; commercial  
27                   structures; applicability; definitions

28      A. Until the association makes a common expense assessment, the  
29 declarant shall pay all common expenses. After any assessment has been  
30 made by the association, assessments shall be made at least annually,  
31 based on a budget adopted at least annually by the association.

32      B. Except for assessments under subsections C, D, E, ~~and~~ F AND H of  
33 this section, all common expenses shall be assessed against all the units  
34 in accordance with the allocations set forth in the declaration pursuant  
35 to section 33-1217, subsection A. Any past due common expense assessment  
36 or installment bears interest at the rate established by the board subject  
37 to the condominium documents.

38      C. Unless otherwise provided for in the declaration, all of the  
39 following apply:

40       1. Any common expense associated with the maintenance, repair or  
41 replacement of a limited common element shall be equally assessed against  
42 the units to which the limited common element is assigned.

43       2. Any common expense or portion of a common expense benefitting  
44 fewer than all of the units shall be assessed exclusively against the  
45 units benefitted.

1       D. Assessments to pay a judgment against the association may be  
2 made only against the units in the condominium at the time the judgment  
3 was entered, in proportion to their common expense liabilities.

4       E. If any common expense is caused by the misconduct of any unit  
5 owner, the association may assess that expense exclusively against that  
6 unit.

7       F. If the declaration so provides, the common expense assessment  
8 for any unit on which construction has not been substantially completed  
9 may be an amount ~~which THAT is not less than AT LEAST twenty-five percent~~  
10 ~~PERCENT~~ of the common expense assessment for units ~~which THAT~~ have been  
11 substantially completed. However, this reduced common expense assessment  
12 shall not be ~~permitted~~, ALLOWED unless the declarant is obligated under  
13 the declaration to pay to the association any deficiency in monies due to  
14 the declarant having paid a reduced common assessment and necessary for  
15 the association to be able to timely pay all common expenses.

16       G. If common expense liabilities are reallocated, common expense  
17 assessments and any installment on the assessments not yet due shall be  
18 recalculated in accordance with the reallocated common expense  
19 liabilities.

20       H. NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS, IF A  
21 CONDOMINIUM INCLUDES ONE OR MORE COMMERCIAL STRUCTURES THAT ARE SEPARATE  
22 FROM ONE OR MORE RESIDENTIAL STRUCTURES, ALL OF THE FOLLOWING APPLY:

23       1. ANY COMMON EXPENSE OR PORTION OF A COMMON EXPENSE THAT  
24 EXCLUSIVELY BENEFITS THE COMMERCIAL STRUCTURES SHALL BE ASSESSED  
25 EXCLUSIVELY AGAINST THE UNITS IN THE COMMERCIAL STRUCTURES, WHETHER  
26 ASSESSED IN A GENERAL ASSESSMENT OR SPECIAL ASSESSMENT OR OTHERWISE.

27       2. ANY COMMON EXPENSE OR PORTION OF A COMMON EXPENSE THAT  
28 EXCLUSIVELY BENEFITS THE RESIDENTIAL STRUCTURES SHALL BE ASSESSED  
29 EXCLUSIVELY AGAINST THE UNITS IN THE RESIDENTIAL STRUCTURES, WHETHER  
30 ASSESSED IN A GENERAL ASSESSMENT OR SPECIAL ASSESSMENT OR OTHERWISE.

31       3. ANY COMMON EXPENSE OR PORTION OF A COMMON EXPENSE THAT BENEFITS  
32 BOTH THE COMMERCIAL STRUCTURES AND THE RESIDENTIAL STRUCTURES SHALL BE  
33 ASSESSED IN PROPORTION TO THE CATEGORY OF THE STRUCTURES BENEFITTED,  
34 WHETHER ASSESSED IN A GENERAL ASSESSMENT OR SPECIAL ASSESSMENT OR  
35 OTHERWISE. THE PROPORTIONAL SHARE OF THE COMMON EXPENSES THAT BENEFIT THE  
36 COMMERCIAL STRUCTURES SHALL THEREAFTER BE ASSESSED AGAINST THE UNITS IN  
37 THE COMMERCIAL STRUCTURES ON A PRO RATA BASIS, AND THE PROPORTIONAL SHARE  
38 OF THE COMMON EXPENSES THAT BENEFIT THE RESIDENTIAL STRUCTURES SHALL  
39 THEREAFTER BE ASSESSED AGAINST THE UNITS IN THE RESIDENTIAL STRUCTURES ON  
40 A PRO RATA BASIS.

41       4. IN ANY DISPUTE OVER THE ALLOCATION OF A COMMON EXPENSE OR  
42 PORTION OF A COMMON EXPENSE, THE ASSOCIATION SHALL MAKE AVAILABLE AS  
43 PRESCRIBED BY SECTION 33-1258 ALL RECORDS RELATING TO THE ASSOCIATION'S  
44 ALLOCATION OF A COMMON EXPENSE OR PORTION OF A COMMON EXPENSE. THE  
45 ASSOCIATION MAY NOT WITHHOLD A RECORD BASED ON THE PENDENCY OF LITIGATION

1 RELATING TO THE ALLOCATION OF A COMMON EXPENSE OR PORTION OF A COMMON  
2 EXPENSE IF THE RECORD WOULD OTHERWISE BE AVAILABLE TO A UNIT OWNER UNDER  
3 SECTION 33-1258.

4 5. AFTER ANY PERIOD OF DECLARANT CONTROL ENDS, THE UNIT OWNERS MAY  
5 APPROVE ONLY BY A UNANIMOUS VOTE A DIFFERENT ALLOCATION OF A COMMON  
6 EXPENSE OR PORTION OF A COMMON EXPENSE THAN IS PRESCRIBED BY THIS  
7 SUBSECTION.

8 ~~H.~~ I. This section does not apply to timeshare plans or  
9 associations that are subject to chapter 20 of this title.

10 J. FOR THE PURPOSES OF THIS SECTION:

11 1. "COMMERCIAL STRUCTURE" MEANS A STRUCTURE IN WHICH A MAJORITY OF  
12 THE UNITS ARE DESIGNATED FOR COMMERCIAL OR WORK PURPOSES AND IS SEPARATE  
13 FROM A RESIDENTIAL STRUCTURE IF NO RESIDENTIAL UNITS ARE LOCATED ON TOP OF  
14 OR BELOW THE COMMERCIAL STRUCTURE.

15 2. "COMMON EXPENSES" HAS THE SAME MEANING PRESCRIBED IN SECTION  
16 33-1202.

17 3. "RESIDENTIAL STRUCTURE" MEANS A STRUCTURE IN WHICH A MAJORITY OF  
18 THE UNITS ARE DESIGNATED FOR RESIDENTIAL PURPOSES.

19 Sec. 4. Applicability

20 Section 33-1255, Arizona Revised Statutes, as amended by this act,  
21 applies to any condominium existing on or after the effective date of this  
22 act.

APPROVED BY THE GOVERNOR APRIL 7, 2025.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 7, 2025.